

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 VINCENT SCOCOZZO,

4 Plaintiff

5 v.

6 SERENITY MENTAL HEALTH GROUP, et  
al.,

7 Defendants

Case No. 2:19-cv-01274-JAD-VCF

**Order Dismissing Action**

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9 This action began with a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983  
10 by a person in the custody of the Nevada Department of Corrections. On July 29, 2019, this  
11 court issued an order denying the application to proceed *in forma pauperis*, without prejudice,  
12 because the application was incomplete.<sup>1</sup> The court ordered the plaintiff to file a fully complete  
13 application to proceed *in forma pauperis*, including a properly executed financial certificate and  
14 an inmate account statement, or pay the full \$400 filing fee within 30 days.<sup>2</sup> That 30-day  
15 deadline has passed, and plaintiff has not filed another application to proceed *in forma pauperis*,  
16 paid the full filing fee, or otherwise responded to the court's order.

17 District courts have the inherent power to control their dockets and “[i]n the exercise of  
18 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.<sup>3</sup> A  
19 court may dismiss an action based on a party's failure to prosecute an action, failure to obey a  
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22 <sup>1</sup> ECF No. 3 at 1-2.

23 <sup>2</sup> *Id.* at 2.

<sup>3</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

1 court order, or failure to comply with local rules.<sup>4</sup> In determining whether to dismiss an action  
2 on one of these grounds, the court must consider: (1) the public’s interest in expeditious  
3 resolution of litigation; (2) the court’s need to manage its docket; (3) the risk of prejudice to the  
4 defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the  
5 availability of less drastic alternatives.<sup>5</sup>

6 The first two factors, the public’s interest in expeditiously resolving this litigation and the  
7 court’s interest in managing its docket, weigh in favor of dismissal of the plaintiff’s claims. The  
8 third factor, risk of prejudice to defendants, also weighs in favor of dismissal because a  
9 presumption of injury arises from the occurrence of unreasonable delay in filing a pleading  
10 ordered by the court or prosecuting an action.<sup>6</sup> A court’s warning to a party that its failure to  
11 obey the court’s order will result in dismissal satisfies the fifth factor’s “consideration of  
12 alternatives” requirement,<sup>7</sup> and that warning was given here.<sup>8</sup> The fourth factor—the public  
13 policy favoring disposition of cases on their merits—is greatly outweighed by the factors  
14 favoring dismissal.

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17 <sup>4</sup> See *Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for noncompliance with  
18 local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th Cir. 1992) (dismissal for failure to  
19 comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440–  
20 41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring *pro se* plaintiffs to  
keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir.  
21 1987) (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421,  
1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply with local rules)

21 <sup>5</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at 130;  
22 *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.


22 <sup>6</sup> See *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

23 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at 1424.

<sup>8</sup> ECF No. 3.

1           Accordingly, with good cause appearing and no reason to delay, IT IS HEREBY  
2 ORDERED that **THIS ACTION IS DISMISSED** without prejudice based on plaintiff's failure  
3 to file a complete application to proceed *in forma pauperis* or pay the full filing fee in  
4 compliance with this court's July 29, 2019, order.

5           **The Clerk of Court is directed to ENTER JUDGMENT accordingly and CLOSE**  
6 **THIS CASE.**

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10 U.S. District Judge Jennifer A. Dorsey  
11 Dated: September 9, 2019  
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